

Notice of Allowability

Application No.

10/718,081

Applicant(s)

MEIER ET AL.

Examiner

Art Unit

Daniel Swerdlow

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 20 November 2003.
2. ☒ The allowed claim(s) is/are 1, 3-21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Robert Bodi, reg. no. 48,540 on 6 April 2006.

The application has been amended as follows:

In the claims:

Claims 1 through 6, 20 and 21 are amended as follows:

1. (currently amended) Method for adjusting a hearing device in which one of several hearing programs can be selected, the method comprising the steps of:
 - identifying a momentary acoustic surround situation; ~~and~~
 - ~~arranging~~ determining a suitability measure for each of the selectable hearing programs according to the identified momentary acoustic surround situation; and
 - assigning a priority to each of the selectable hearing programs according to its suitability measure.
2. (cancelled)

3. (currently amended) Method of ~~claim 2~~ claim 1 further comprising the step of automatically selecting the hearing program with the highest suitability measure to operate the hearing device.

4. (currently amended) Method of ~~claim 2~~ claim 1 further comprising the step of selecting the hearing program with the highest suitability measure after an activation signal has been received.

5. (currently amended) Method of claim 3 further comprising the step of selecting a hearing program with ~~a lower~~ the next highest suitability measure to the currently selected program upon receiving an activation signal provided that such a hearing program exists.

6. (currently amended) Method of claim 4 further comprising the step of selecting a hearing program with ~~a lower~~ the next highest suitability measure to the currently selected program upon receiving an activation signal provided that such a hearing program exists.

20. (currently amended) Method of one of the claims 17 to 19 further comprising the step of treating a hearing program with optimal parameters for the further input source as having the second best suitability measure.

21. (currently amended) Hearing device system with a hearing device in which the method of one of the ~~claims 1 to 4~~ claims 1, 3 or 4 ~~is operate-able~~ is implemented.

Drawings

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: Figure 1 requires descriptive legends for blocks that are identified only by reference characters. 37 CFR 1.84 (o) states: "Suitable descriptive legends ... may be required by the examiner where necessary for understanding of the drawing." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:
2. Regarding Claim 1, US Patent 4,425,481 to Mansgold et al. discloses a hearing aid (Fig. 2) that selects a signal process best suited to particular sound environment (i.e., in which one of several hearing programs can be selected) (column 2, lines 15-18) by: identifying a particular listening situation (i.e., a momentary acoustic surround situation) (column 5, lines 15-22); and transferring data representing the most suitable signal process for the situation into an active register. As such, Mansgold discloses making a determination for each signal process as to whether it is the most suitable or not the most suitable. This constitutes determining a suitability measure for each of the selectable hearing programs. However, Mansgold does not disclose assigning a priority to each of the selectable hearing programs according to its suitability measure. Rather, Mansgold discloses either automatic direct access to the most suitable signal process or manual scrolling through the available processes in a fixed arbitrary order (column 4, lines 33-68). There is no teaching or suggestion in the prior art to modify the hearing aid

disclosed in Mansgold to assign a priority to each of the selectable hearing programs according to its suitability measure. As such, Claim 1 is allowable.

3. The remaining claims are allowable due to dependence from Claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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